

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Petitioner,

v.

GONG YANG SONG,

Respondent.

Case No. 3:21-MC-28

**APPLICATION FOR AN ORDER TO SHOW CAUSE WHY EEOC
ADMINISTRATIVE SUBPOENA SHOULD NOT BE ENFORCED**

The U.S. Equal Employment Opportunity Commission (the “Commission” or “EEOC”) institutes the above-styled and numbered miscellaneous action and hereby states as follows:

1. This is an action for enforcement of the Commission’s administrative subpoena, pursuant to Sections 709 and 710 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-8 and 2000e-9.

2. Jurisdiction is conferred upon this Court by §§ 706(f)(3) and 710 of Title VII, 42 U.S.C. §§ 2000e-5(f)(3) and 2000e-9.

3. The Commission is a federal government agency charged with the administration, interpretation and enforcement of Title VII, including the investigation of charges of unlawful employment practices, 42 U.S.C. §§ 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9.

4. Respondent Gong Yang Song, a natural person, resides in Clearfield County in the Commonwealth of Pennsylvania.

5. The Commission’s Pittsburgh Area Office is presently conducting an investigation of an administrative Charge of Discrimination, EEOC Charge Number 533-2020-02304 (“the

Charge”), filed by Charging Party Qiaoyun Chen against her former employer, Fusion Buffet. The Charge sets forth allegations that Fusion Buffet subjected Ms. Chen to a hostile work environment because of her sex, race, and national origin, including but not limited to sexual assault, in violation of Title VII.

6. Respondent Song is an owner of Fusion Buffet and the alleged perpetrator of the hostile work environment.

7. On May 26, 2021, the Commission issued a Subpoena, Number TPI-941, pursuant to and in accordance with the Commission’s Procedural Regulations, 29 C.F.R. § 1601.16(a). The Commission caused the Subpoena to be served upon Respondent via certified U.S. Mail and UPS 2nd Day Air on May 27, 2021. The Subpoena requires Respondent to produce his cell phone and the contents thereof for forensic examination and imaging as part of the Commission’s investigation of the Charge. As discussed more fully in the attached Memorandum in Support of this Application, the contents of Respondent Song’s cell phone are relevant evidence in the Commission’s investigation.

8. Pursuant to 29 C.F.R. § 1601.16(b)(1), any person served with a Subpoena who intends not to comply shall file a Petition to Revoke or Modify with the Commission, via the issuing EEOC Office Director, within five (5) days after service of the Subpoena. Respondent did not file a Petition to Revoke or Modify with EEOC’s Pittsburgh Area Office Director within five days after receiving the subpoena.

9. As of the date of the filing of this Application, Respondent has failed to comply with the Commission’s Subpoena.

10. The attached Declaration of Louise Walker-Sostre, EEOC Investigator, provides the factual basis for this Application. *See* Ex. A. The Investigator's Declaration and the Attachments thereto are incorporated by reference in this Application.

WHEREFORE, the Commission requests:

(a) That an Order to Show Cause be issued forthwith directing that Respondent appear before this Court and to show cause why an Order should not be issued requiring that Respondent comply with Subpoena No. TPI-941 in its entirety. A proposed Order to Show Cause Why EEOC Administrative Subpoena Should Not Be Enforced is attached to this Application as Exhibit B.

(b) That upon return of said Order to Show Cause, an Order be issued directing that Respondent produce all documents and data requested in the Subpoena. A proposed Order Enforcing EEOC Subpoena is attached to this Application as Exhibit C; and

(c) That the Commission be granted such further relief as may be just and appropriate.

Respectfully submitted,

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

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